

## **REMARKS**

As an initial matter, Applicants appreciate the Examiner's indication that claims 1-15, 17-52, 56, 58, and 59 are allowed, and that claims 16 and 57 would be allowable if rewritten to overcome rejections under 35 U.S.C. § 112, second paragraph.

### **I. Obviousness-Type Double Patenting Rejection**

In the Office Action, claims 53-55 were provisionally rejected based on asserted non-statutory, obviousness-type double patenting grounds based on claim 41 of co-pending U.S. patent application no. 10/822,178. Applicants have submitted herewith a Terminal Disclaimer referencing co-pending U.S. patent application no. 10/822,178. Therefore, Applicants respectfully request reconsideration and withdrawal of the non-statutory, obviousness-type double patenting rejection of claims 53-55.

### **II. Claim Rejection under 35 U.S.C. § 112, Second Paragraph**

In the Office Action, claims 16 and 57 were rejected under 35 U.S.C. § 112, second paragraph. Applicant have amended claim 16 to depend from claim 15 rather than claim 14, and have amended claim 57 such that it recites, "wherein the formulation comprises at least one fatty phase comprising at least one compound chosen from semi-crystalline polymers having a melting point over 20°C." Applicants respectfully request reconsideration and withdrawal of the § 112, second paragraph, rejection of claims 16 and 57.

### **III. Conclusion**

For at least the reasons set forth above, claims 1-59 should be allowable, and Applicants respectfully request reconsideration of this application, withdrawal of the claim rejections, and allowance of claims 1-59.

If the Examiner believes that a telephone conversation might advance prosecution, the Examiner is cordially invited to call Applicants' undersigned attorney at (571) 203-2739.

Applicants respectfully submit that the Office Action contains assertions concerning the related art and the claims. Regardless of whether those assertions are addressed specifically herein, Applicants respectfully decline to automatically subscribe to them.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 6-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

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By: 

Christopher T. Kent  
Reg. No. 48,216